

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 23-CV-81199-ROSENBERG

ISSAC RODLY LOUINSTE,

Petitioner,

v.

FLORIDA DEPARTMENT OF
CORRECTIONS,

Respondent.

ORDER DENYING PETITION FOR WRIT OF HABEAS CORPUS

THIS CAUSE is before the Court on the Petitioner's Petition for Writ of Habeas Corpus at docket entry 1. The Respondent filed an Answer at docket entry 7. The Petitioner filed a Reply at docket entry 10. For the reasons set forth below, the Petition is **DISMISSED** as untimely.

A jury convicted the Petitioner of attempted first-degree murder. DE 7 at 1-2. The Petitioner appealed, the Fourth District Court of Appeal affirmed, and the Petitioner did not seek review from the Florida Supreme Court. *Id.* at 2. As a result, the Petitioner's conviction became final on December 9, 2019.


Federal habeas corpus petitions must be filed within one year of the date a conviction becomes final. 28 U.S.C. § 2244(d)(1)(A). After the Petitioner's earlier-filed post-conviction motion was denied on December 13, 2019, the Petitioner again sought post-conviction relief on March 11, 2020, 89 days later. As a result, the one-year deadline for a federal habeas corpus petition was tolled on that date. 28 U.S.C. § 2244(d)(2). On October 7, 2022, the Petitioner's post-conviction proceedings concluded unsuccessfully and, on that date, the one-year time limit for a federal habeas corpus petition resumed. This Petition was filed on August 28, 2023, which is 325 days later. Because $325 + 89 = 414$, and because 414 days is more than a year, the Petition is untimely.

The Petitioner has provided no legal basis for this Court to apply the “extraordinary” exception where the Petitioner’s lack of timeliness is excused, such that an “extraordinary circumstance” stood in the way of the Petitioner’s filing of the Petition. *See Cadet v. Sec’y Fla. Dep’t of Corr.*, 853 F.3d 1216, 1221 (11th Cir. 2017). The Petition is therefore due for dismissal.

Accordingly, it is **ORDERED AND ADJUDGED** that:

1. The Petitioner’s Petition [DE 1] is **DISMISSED AS UNTIMELY**;
2. No certifiable of appealability **SHALL ISSUE**;
3. Any pending motions are **DENIED AS MOOT**; and
4. The Clerk of Court shall **CLOSE** the case.

DONE AND ORDERED in Chambers at West Palm Beach, Florida, this 9th day of February, 2024.


ROBIN L. ROSENBERG
UNITED STATES DISTRICT JUDGE

cc: Counsel of Record

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